

Appellant-defendant Valencia Shelton appeals her thirty-year sentence that was imposed after pleading guilty to Voluntary Manslaughter¹, a class A felony. Specifically, Shelton argues that her sentence is inappropriate in light of the nature of the offense and her character. Finding no error, we affirm the judgment of the trial court.

FACTS

On January 14, 2006, Shelton and Kerry Trotter were living together in an East Chicago apartment. Shortly before 1:20 a.m., Shelton and Trotter were in their apartment where they got into a heated argument. The argument escalated into a physical altercation, and Shelton grabbed a kitchen knife and stabbed Trotter in the left chest area. Trotter died as the result of his injury.

Shelton was charged with murder; however, on April 14, 2008, Shelton signed a plea agreement, pursuant to which the State agreed to dismiss the murder charge in exchange for Shelton's guilty plea to voluntary manslaughter. Pursuant to the plea agreement, the parties were free to argue their respective positions regarding sentencing.

At the sentencing hearing, which commenced on June 3, 2008, the trial court found the following aggravating factors: Shelton had the opportunity to avoid the situation, she was in a position of trust, and a reduced sentence would depreciate the seriousness of the crime. In mitigation, the trial court noted Shelton's remorse, her admitted guilt, and her lack of prior criminal history. The trial court sentenced Shelton to thirty years of incarceration in the Indiana Department of Correction. Shelton now appeals.

¹ Ind. Code § 35-42-1-3.

DISCUSSION AND DECISION

Shelton argues that her sentence is inappropriate in light of the nature of the offense and her character pursuant to Indiana Appellate Rule 7(B). In reviewing a Rule 7(B) appropriateness challenge, we defer to the trial court. Stewart v. State, 866 N.E.2d 858, 866 (Ind. Ct. App. 2007). The burden is on the defendant to persuade us that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). Our Supreme Court has recently further articulated the role of appellate courts in reviewing a 7(B) challenge:

Ultimately the length of the aggregate sentence and how it is to be served are the issues that matter. . . . And whether we regard a sentence as appropriate at the end of the day turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case. . . . There is thus no right answer as to the proper sentence in any given case. As a result, the role of an appellate court in reviewing a sentence is unlike its role in reviewing an appeal for legal error or sufficiency of evidence. . . .

The principal role of appellate review should be to attempt to leaven the outliers, and identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes, but not to achieve a perceived “correct” result in each case. In the case of some crimes, the number of counts that can be charged and proved is virtually entirely at the discretion of the prosecution. For that reason, appellate review should focus on the forest—the aggregate sentence—rather than the trees—consecutive or concurrent, number of counts, or length of the sentence on any individual count.

Cardwell v. State, 895 N.E.2d 1219, 1224-25 (Ind. 2008) (footnotes omitted).

A person who commits a class A felony faces a sentence of twenty to fifty years, with an advisory sentence of thirty years imprisonment. Ind. Code § 35-50-2-4. Here, Shelton was sentenced to the advisory sentence of thirty years.

As for the nature of the offense, the trial court concluded that Shelton was in a position of trust. In addition, Shelton could have walked away from the argument, left the apartment, or called the police. Instead, Shelton grabbed a knife and stabbed Trotter, killing him. Therefore, we cannot say that the imposition of the advisory sentence is inappropriate in light of the nature of offense.

As for Shelton's character, the trial court determined that she had had no prior criminal background. Furthermore, Shelton expressed remorse for her actions and admitted guilt, although she received a substantial benefit from pleading guilty. See Kinkead v. State, 791 N.E.2d 243, 247-48 (Ind. Ct. App. 2003) (holding that the trial court did not err by not considering a guilty plea a significant mitigating factor because the defendant had already received a benefit from pleading guilty). Nevertheless, we agree that this evidence establishes the mitigating nature of Shelton's character. However, in light of the nature of the offense, we cannot say that the trial court abused its discretion by sentencing Shelton to the advisory sentence of thirty years.

The judgment of the trial court is affirmed.

NAJAM, J., and KIRSCH, J., concur.